

### **REMARKS**

Upon entry of the present amendment, claims 1-5 will remain pending in the above-identified application, with claims 1 and 4-5 standing ready for further action on the merits, and remaining claims 2-3 being withdrawn from consideration based on an earlier election of species during a telephone conversation on January 28, 2009. Claims 1 and 4-5 have been amended.

The present amendments to claims 1 and 4-5 do not introduce new matter into the application as originally filed. For example, support for the amendments to claims 1 and 4 can be found in the present specification at page 11, lines 9-14, respectively.

Accordingly, proper consideration of each of the pending claims is respectfully requested at present, as is entry of the present amendment.

#### ***Election of Species***

It is affirmed that for the purpose of examination of the present application, Applicants elected Species C as claimed in claim 4 (Fig. 4).

However, as explained below, since the generic claim (*i.e.*, currently amended claim 1) should be patentable, Applicants respectfully request that the Examiner rejoin claims 2 and 3, which were withdrawn from consideration.

#### ***Claim Rejection under 35 U.S.C. § 112***

At page 3 of the Office Action, claim 4 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection.

In the present amendment, claim 4 has been amended as the Examiner suggests in the Office Action of February 6, 2009. Thus, upon entry of the present amendment to claim 4, the rejection has been overcome. Applicants respectfully request that the Examiner withdraw the rejection.

***Claim Rejections under 35 U.S.C. § 103***

At pages 4-6 of the Office Action, claims 1, 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McPherson US '676 (US 5,096,676).

Further, claims 1, 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wicks US '675 (US 5,958,675).

Applicants respectfully traverse and request that the Examiner withdraw the rejections based on the following considerations.

***The Present Invention***

As recited in the claims, the present invention is directed to a multiwell plate. In order to further clarify features of the present invention, independent claim 1 has been amended by reciting a bottom sheet being removable from a body (*i.e.*, "*a sheet of the bottom of the body is removable from the body.*")

As disclosed in the instant specification (see page 1, lines 3-6, for example), the multiwell plate of the present invention is used for carrying and storing microbes (strains), phages, DNA, cells, *etc.* Also, as disclosed in the instant specification (see page 2, lines 15-22, page 10, line 28 to page 11, line 1, page 12, line 28 to page 13, line 2), in order to correspond a

position of strain on the multiwell plate to a position of replicated strain on the culture medium, it is significant that the bottom sheet is removable.

Nonobviousness over the Cited References

First, as recited in the claims, the present invention relates to a multiwell plate, which is suitably used for carrying and storing microbes (strains), phages, DNA, cells, *etc.*

On the other hand, McPherson US '676 discloses a crystal growing apparatus and Wicks US '675 discloses a method for detecting bacteria. However, McPherson US '676 and Wicks US '675 fail to disclose or suggest a device used for carrying and storing microbes (strains), phages, DNA, and cells, *etc.*

Next, each of the cited references fails to disclose or suggest structural features of the present invention. It is noted, as recited in currently amended claim 1, a sheet of the bottom is removable from the body (*i.e.*, "*a sheet of the bottom of the body is removable from the body*") in the present invention.

However, in the devices as disclosed in McPherson US '676 and Wicks US '675, the bottom sheet is fixed to the body and the bottom sheet is not formed removable from the body.

Thus, the cited references fail to disclose or suggest such a feature of the present invention. Consequently, a *prima facie* case of obviousness cannot be established based on either McPherson US '676 or Wicks US '675. Likewise, there is no reasonable rationale and/or reasonable expectation of success for one skilled in the art to arrive at the present invention based on each of the cited references or the combination thereof since none of the cited

references discloses or suggest the feature of the present invention (*i.e.*, a removable bottom sheet), as explained above.

Therefore, the present invention (claim 1 and its dependent claims) are not obvious over the cited references. Applicants respectfully request that the Examiner withdraw the rejections.

### **CONCLUSION**

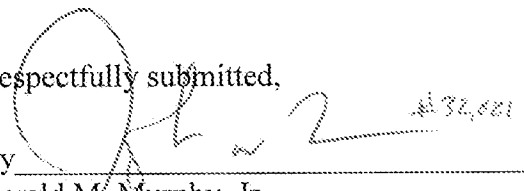
Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims is allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Toyohiko Konno, Reg. No. L0053 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: **AUG - 4 2009**

Respectfully submitted,

By   
Gerald M. Murphy, Jr.  
Registration No.: 28,977  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant